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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

GABRIEL JOSEPH MESA,

Defendant.

No. 2:13-cr-418-APG-VCF

UNITED STATES' EMERGENCY
MOTION TO CONTINUE HEARING
FOR REVOCATION OF SUPERVISED
RELEASE

The United States of America, through Nicholas A. Trutanich, United States Attorney, and Daniel J. Cowhig, Assistant United States Attorney, files this Emergency Motion to Continue Hearing for Revocation of Supervised Release currently set for Thursday June 13 at 11:00 a.m, for a period of not less than 30 days for the reasons set out below.

Counsel have conferred on this motion. As of offender Mesa's most recent prior communication with his counsel, Brian J. Smith, Esq., offender Mesa opposes.

FACTUAL AND PROCEDURAL CONTEXT

Offender Mesa is serving a three-year term of supervised release as a result of his conviction in this case, consistent with his pleas, on two counts of having violated Title 18, United States Code sections 922(g)(1) and 924(a)(2), Possession of a Firearm by a Convicted Felon. ECF 88. Offender

1 Mesa began this term of supervision on February 12, 2018 after serving a 57-month custodial
2 sentence. ECF 94.

3 Offender Mesa is scheduled to appear before the Court on Thursday June 13 at 11:00 a.m, in
4 Las Vegas Courtroom 6C for a Hearing for Revocation of Supervised Release. ECF 100. On April
5 2, 2019, the United States Probation Office (USPO) for the District of Nevada filed a Petition for
6 Warrant for Offender Under Supervision recommending the Court revoke offender Mesa's term of
7 supervision. ECF 94. The USPO recommended revocation based on their discovery during a home
8 visit the previous day that offender Mesa had violated conditions of supervision by possessing a
9 firearm and ammunition, 2.3 grams of cocaine, 2.1 grams of methamphetamine, and drug
10 paraphernalia including a digital scale and baggies. *Id.* The probation officers at the scene requested
11 the assistance of the Las Vegas Metropolitan Police Department (Metro), who responded to the
12 scene. *Id.* Metro officers seized the drugs, firearm and other evidence and took offender Mesa into
13 custody on state charges, filed that same day. *Id.*; see Nevada v. Gabriel Joseph Mesa, Case No.
14 19F06418X, filed April 1, 2019 in Las Vegas Justice Court Department 3. That matter has not been
15 adjudicated.

16 Offender Mesa appeared before the duty magistrate on May 3, 2019. ECF 100. The
17 Magistrate Judge ordered offender Mesa detained pending the revocation proceeding. *Id.*; ECF 107.

18 Through counsel, offender Mesa today informed the undersigned and the U.S. Probation
19 Office that he rejects a proposed resolution and requests an evidentiary hearing on the violations
20 contained in the petition.

21 The U.S. Attorney's Office (USAO) and USPO estimate presentation of the evidence to
22 prove the violations described in the petition will require approximately 2 to 3 days.

23 One of the probation officers present for the search, an essential witness, is currently out of
24 the jurisdiction. Several Metro officers and forensic personnel involved in the seizure and testing of

1 the drugs, firearm and ammunition are essential witnesses. Metro requests a minimum notice of one
2 full week for subpoenas to their personnel to allow their officers time to prepare and to avoid
3 shortfalls in law enforcement coverage. While Metro personnel have requested expedited testing,
4 some tests are still pending.

5 The probation officer supervising offender Mesa, who was involved in the USPO
6 investigation of the violations described in the petition, will be unavailable for a training event the
7 week on July 15, 2019.

8 POINTS AND AUTHORITIES

9 Under Federal Rule of Criminal Procedure 32.1(b)(2), “unless waived by the person, the
10 Court must hold the revocation hearing within a reasonable time in the District having jurisdiction.”
11 The Advisory Committee Notes indicate that “what constitutes a reasonable time must be
12 determined on the facts of the particular case.” Fed.R.Crim.P. Advisory Committee Notes to Rule
13 32.1.

14 In this instance, it would be appropriate to defer the revocation hearing in this matter for a
15 brief period of not less than 30 days to (a) allow a reasonable period to allow for the orderly
16 preparation for an evidentiary hearing, including the issuance of subpoenas to law enforcement
17 officers; (b) permit the USPO to obtain the appropriate forensic evidence from the primary law
18 enforcement agency conducting the new investigation, and (c) conduct the hearing without
19 disrupting the supervising probation officer’s participation in an annual training event.

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RELIEF REQUESTED

For the reasons stated above, the United States requests the Court vacate the revocation hearing in this matter currently set for Thursday June 13, 2019 at 11:00 a.m, and reset the revocation hearing for a date not sooner than 30 days from June 13, 2019.

Dated: June 12, 2019.

NICHOLAS A. TRUTANICH,
United States Attorney

_____/s/_____
DANIEL J. COWHIG
Assistant United States Attorney

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

GABRIEL JOSEPH MESA,

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No. 2:13-cr-418-APG-VCF

**PROPOSED
ORDER GRANTING THE UNITED
STATES' EMERGENCY MOTION TO
CONTINUE HEARING FOR
REVOCATION OF SUPERVISED
RELEASE**

ORDER

IT IS HEREBY ORDERED, based upon the filing by the United States and the record in this case and for good cause shown, that the revocation hearing currently scheduled for Thursday, June 13, 2019 at 11:00 a.m., be vacated and continued to _____ at the hour of ____:____.m. in Las Vegas Courtroom _____.

IT IS SO ORDERED this June _____, 2019:

THE HONORABLE ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE

